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BOARD OF ARCHITECTS OF TASMANIA

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Complaints Against Architects

Introduction

The *Architects Act 1929* (Act) provides for a process whereby a person who is aggrieved by an architect carrying out architectural services is able to make a complaint to the Board of Architects of Tasmania (Board).

Section 20A of the Act states:

Any person (including the Board) may make a complaint against an architect –

(a) in respect of the architect's conduct as an architect; or

(b) if the person is of the opinion that there are grounds on which an order could be made in relation to the architect under section 20E.

In making a Determination of a complaint, it may result in a wide range of orders being issued to the architect including being counselled, reprimanded, suspended, registration cancelled, rectifying their work or any other sanction provided under [Section 20E\(1\) of the Act](#).

The Board is not able to award costs to a complainant or order any refund of fees or other related matters. If financial compensation is your primary interest, you should consider a claim under the Tasmanian Security of Payments legislation or other civil action.

Complaints

Any person (including the Board) may make a complaint against an architect –

(a) in respect of the architect's conduct as an architect; or

(b) if the person is of the opinion that there are grounds on which an order could be made in relation to the architect under [section 20E of the Architects Act](#).

The Board may after completing an investigation of a complaint in relation to an architect's conduct, determine the complaint by making an order on an architect for a variety of reasons including when an architect has engaged in professional misconduct or unprofessional conduct.

Professional misconduct, in relation to an architect, means –

(a) substantial or persistent unprofessional conduct by the person; or

(b) conduct of the person, whether or not occurring in connection with the practice of architecture, that would justify concluding that the person is not a fit and proper person to be an architect

Unprofessional conduct, in relation to an architect, means conduct by the architect, in the course of the practice of architecture by the architect, that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent person engaging in the practice of architecture.

Please refer to the attached Code of Conduct.

Disputes of a legal nature relating to, for example, fees, contractual obligations and intellectual property rights are outside the Board's jurisdiction. In these circumstances you should seek independent legal advice. If your dispute concerns a builder or persons carrying out building work, you may decide to contact the [Director of Building Control](#).

Initial Steps

If you are aggrieved in respect of the architect's conduct as an architect or if the person is of the opinion that there are grounds on which an order could be made in relation to the architect under section 20E of the Architects Act, you should first establish that you are dealing with a registered architect. You can do this by contacting the Board on (03) 6234 8188 or checking the register on the [Board's website](#).

Secondly, you should talk to your architect and try to resolve your issues and concerns. If this fails, you should follow the dispute resolution process specified in the contract or agreement you have with your architect (if applicable). This may include mediation in which a 'mediator' controls the negotiation process and helps the parties reach a point where they can settle their own dispute. If these processes have failed, you may decide to lodge a complaint with the Board.

Thirdly, discuss the matter with the Board's Registrar, who may be able to help you clarify if lodging a complaint with the Board is appropriate for your circumstances considering the Board's disciplinary power under the Act, refer Section 20. The Board's first step will be to offer to contact the architect and endeavour to resolve the issue.

Lodging a Complaint

A complaint (other than a complaint made by the Board) is to be made to the Board and is to be lodged with the Registrar.

A complaint–

- (a) is to be in writing
(use of the Board's Complaints Form will assist the process); and
- (b) must identify the complainant; and
- (c) must contain particulars of the allegations on which it is founded.

The Board may require the Complainant to provide further particulars of a complaint and/or may direct the Registrar to provide reasonable assistance in making a complaint.

The complaint should include a copy of the agreement engaging the architect and all other relevant documents in a chronological order.

Board Procedures

The Board is obliged to act in good faith and in the public interest when considering complaints. Consequently, the Board is committed to having a transparent complaints process which is outlined below.

It is the responsibility of the complainant and architect to prepare and present their submissions to the Board. It is not the role of Board staff to provide legal advice.

1. The Board will acknowledge receipt of a complaint in writing as soon as practicable after it has been received – normally within 5 to 7 working days
2. If the Board decides a complaint is misconceived, the Board will not seek a response from the architect, but simply dismiss it and advise the complainant. In these circumstances the architect will be informed that the Board has received a complaint but dismissed it. Misconceived complaints include complaints that are frivolous, vexatious or otherwise lacking merit; refer to matters that have already been dealt with as a complaint by the Board; or are trivial in nature.
3. If the Board determines that the complaint should be investigated further, the architect will be notified of the complaint and provided with a copy of the complaint and any accompanying material. The architect will be asked to respond to the complaint within 14 days or otherwise approved by the Board.
4. The Architect's response will be forwarded to the Complainant giving them 14 days to respond.
5. The Board considers the complaint together with the responses received and may:
 - seek further information from one or both parties,
 - appoint an investigator,
 - Convene a hearing, or
 - Make a determination
6. The Board may select an independent Investigator(s) and if considered necessary additional appropriately qualified independent person(s) to form an investigating committee that undertake an investigation of the complaint.
7. The complaint and the architect's response will be considered by the Investigating Committee and a report will be provided to the Board for consideration.
8. The Board will consider the Complaint with the Investigators' Report and:
 - seek additional information from one or both parties,
 - notify the parties a formal hearing is required, or
 - make a determine;
9. The Board must, after determining a complaint under subsection 20E (1), give notice in writing of that determination, any orders contained in the determination, the findings of the Board, and the reasons for the determination, to –
 - (a) the architect; and
 - (b) all other State, Territory and national registration authorities; and

- (c) the Administrator, within the meaning of the *Occupational Licensing Act 2005*; and
- (d) the complainant, unless the complainant is the Board.

10. If the Board dismisses the complaint a Statement of Determination outlining Board's considerations is forwarded to both parties

11 Either party may appeal to the Magistrates Court for review of the Board's decision

Frequently Asked Questions

Will it cost me anything to make a complaint?

No. The Board's investigation of a complaint will be at no cost to the Complainant. However, if the complainant engages any legal support or independent experts to assist them, it will be at the Complainant's cost.

Will the architect know that I have made a complaint?

Yes, in most circumstances the architect will be sent a copy of the complaint and invited to respond to it.

Can I withdraw a complaint?

Yes. A complaint can always be withdrawn by the complainant. If the Board considers the matter needs further investigation, it may lodge a complaint in its own right.

Can the Board order the architect to pay me damages or compensation or to make restitution?

No. The purpose of the complaints procedure is to regulate the practice of architecture. It is a disciplinary process that may impose penalties on architects, but does not arbitrate in disputes between clients and architects. If the Complainants are seeking damages or compensation or to make restitution they should seek legal advice about how these can be resolved.

How long will it take for my complaint to be dealt with?

Depending on the complexity of the matter the whole process may take from 3 to 12 months to complete.

What if a Complainant is unhappy with the Board Process

A complainant can make a complaint to the Ombudsman if they have concerns with the Board's process.

The Ombudsman is an independent officer appointed by the Governor, and answerable to the Parliament.

The Ombudsman role is to investigate the administrative actions of public authorities to ensure that their actions are lawful, reasonable and fair.

The Ombudsmans works in an independent, impartial and objective way to resolve complaints and to address systemic problems in order to improve the quality and standard of Tasmanian public administration.